UNITED NATIONS

General Assembly

FIFTY-FIRST SESSION

Official Records

SIXTH COMMITTEE
19th meeting
held on
Monday, 14 October 1996
at 10 a.m.
New York

SUMMARY RECORD OF THE 19th MEETING

Chairman: Mr. YAMADA (Japan)

(Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses)

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Distr. GENERAL
A/C.6/51/SR.19
13 March 1997
ENGLISH
ORIGINAL: SPANISH

96-81369 (E)

Mr. Yamada (Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses) took the Chair.

The meeting was called to order at 12.40 p.m.

AGENDA ITEM 144: CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (continued)

Elaboration of a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments and observations of States and views expressed in the debate at the forty-ninth session (A/49/10 and A/49/355; A/51/275 and Corr.1 and Add.1)

1. The CHAIRMAN, after briefly summarizing the progress made by the Working Group in its consideration of the draft articles on the law of the non-navigational uses of international watercourses, recalled that the General Assembly, in the annex to its resolution 49/52, had recommended that the Working Group of the Whole should endeavour to adopt all texts by general agreement. Failing such an agreement within a reasonable period of time, it would take its decisions in accordance with the rules of procedure of the General Assembly.

2. With regard to article 5, paragraph 1, a large group of delegations, which he termed Group 1, wanted to retain the paragraph in its current form, while another large group of States, which he termed Group 2, wanted the paragraph to include a reference to sustainable development, the precautionary principle and ecosystems. Apparently, some members of Group 1 could accept the inclusion of some such reference. On the initiative of the United States of America, informal consultations had been held, resulting in the submission of document A/C.6/51/NUW/WG/CRP.35. He requested the United States representative to report briefly on the progress of those consultations.

3. Mr. HARRIS (United States of America) said that, while he considered his delegation to be a member of Group 1, he appreciated the suggestions made by many delegations for updating and clarifying the text originally proposed by the International Law Commission, and that those delegations wished to include explicitly what was implicit in the paragraph, namely, sustainable development, the precautionary principle and the protection of ecosystems. Efforts had been made to draft the article in such a way as not to upset the delicate balance achieved by the Commission. In the context of article 20, it might be possible to refer to the protection of a watercourse and "its ecosystems" as proposed in document A/C.6/51/NUW/WG/CRP.35, or to "related ecosystems" or "dependent ecosystems". It had also been suggested that the best way to include a reference to the "precautionary principle" and "sustainable development" might be to add new subparagraphs (h) and (i) to article 6, paragraph 1, as proposed in the conference room paper.

4. In general, the United States had sought to pursue a middle course acceptable to the largest possible number of delegations.

5. The CHAIRMAN said that the Working Group should not discuss drafting details, but substantive issues; he wished to know what impressions the United States delegation had gathered from the consultations.

6. Mr. HARRIS (United States of America) said that some delegations were still concerned over the provisions on sustainable development and the precautionary principle, while others questioned whether those provisions might not impose an additional burden on States. The precautionary principle had been taken from the Rio Declaration on Environment and Development, which was already widely accepted. The language proposed in document A/C.6/51/NUW/WG/CRP.35 appeared to satisfy the members of Group 2, who had raised no objections to a more explicit text which might have altered the structure of the draft.

7. Mr. PAZARCI (Turkey) said that the proposals submitted by Canada, Germany, Italy, Romania and the United States (A/C.6/51/NUW/WG/CRP.35) reflected only the views of those countries which had participated in the consultations; the views of other participants had not been taken into account. He did not believe that it was accurate to refer to the United States representative as "the coordinator", as the proposals had not been agreed on by all the countries participating in the consultations.

8. With regard to the content of article 5, the concepts of sustainable development and ecosystems were already mentioned in article 6, and did not need to be referred to again. Accordingly, article 5, paragraph 1, could be adopted as proposed by the Commission, with no changes.

9. The CHAIRMAN said it was clear that the role of the United States had been limited to seeking to reduce differences, and that the delegation had in no way acted as coordinator.

10. Mr. KASSEM (Syrian Arab Republic), after noting that his delegation had submitted an amendment to article 5 (A/C.6/51/NUW/WG/CRP.41), said that it was necessary to define the term "optimal utilization"; he therefore suggested that a new paragraph should be added to article 5, containing the definition found in paragraph (3) of the Commission's commentary on the article, as follows: "Attaining optimal utilization and benefits does not mean achieving the 'maximum' use, the most technologically efficient use, or the most monetarily valuable use, much less short-term gain at the cost of long-term loss. Nor does it imply that the State capable of making the most efficient use of a watercourse - whether economically, in terms of avoiding waste, or in any other sense - should have a superior claim to the use thereof."

11. Mr. CHAR (India) said that it would be preferable to retain article 5, paragraph 1, as proposed by the Commission, since the concepts of sustainable development, ecosystems and the precautionary principle would pose problems for his delegation.

12. Mr. TANZI (Italy) made a statement on procedural matters.

The meeting rose at 1.05 p.m.